

SPAIN AND THE PHILIPPINES IN THE PROTECTION OF THE RIGHT TO A REASONABLE TIME IN CRIMINAL PROCEEDINGS

Carmen Rocio Fernandez Diaz
University of Malaga (Spain)

The subject of this work deals with the right of every person, provided in Article 6.1 of the European Convention on Human Rights, to a hearing within a reasonable time, specifically in criminal proceedings. This right, which in Spain enjoys constitutional protection in Article 24.2 and gives rise to a reduction of the penalty through the application of a mitigating circumstance, provided in article 21.6 of the Criminal Code, also constitutes an object of protection in the Philippines through Article III Section 14 of its Constitution or through the Speedy Trial Act, among other regulations.

The legal configuration of this right in both legal systems has been specially conditioned by case-law but in different senses. Thus, on the one hand, in Spanish law the mitigation applicable to the penalty was introduced into the Criminal Code in 2010 on the basis of a consolidated case-law practice, influenced by the requirements contained in the judicial decisions of the European Court of Human Rights, which pay attention to the circumstances of the specific case, instead of requiring predetermined deadlines. On the other hand, the protection of this right in the Philippine Law, and in particular, the case-law of the Supreme Court, has closely followed the case-law of the United States to interpret the constitutional right to speedy trial, in addition to constitutionally demanding deadlines which the courts must respect.

In conclusion, the present paper intends to compare the two systems, to firstly determine whether in both cases this issue is addressed from the same approach, since in the Spanish case the term used is 'reasonable time' while in the Filipino 'speedy trial'; secondly, to study the requirements of both legal systems; and, thirdly, to evaluate them to consider whether, in both cases, the protection of this procedural guarantee of great relevance is ensured.